

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

UNITED STATES OF AMERICA,
Plaintiff,
v.
SAMUEL M. REZENE,
Defendant.

)
) CASE NO. CR16-185-JLR
)
) Seattle, Washington
)
) March 26, 2024
) 8:59 a.m.
)
) Revocation of
) Supervised Release
) Evidentiary Hearing
)
)

VERBATIM REPORT OF PROCEEDINGS
BEFORE THE HONORABLE JAMES L. ROBERT
UNITED STATES DISTRICT JUDGE

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PROCEEDINGS

THE CLERK: All rise, please.

The United States District Court for the Western District of Washington is now in session, the Honorable James L. Robart presiding.

THE COURT: Please be seated.

The clerk will call this matter.

THE CLERK: Case number CR16-185, United States versus Samuel Rezene.

Counsel, please rise and make your appearances for the record.

MR. GREENBERG: Your Honor, Todd Greenberg and Stephen Hobbs for the United States.

THE COURT: Thank you.

MR. BLACK: Good morning, Your Honor.

Chris Black appearing for Mr. Rezene, who is here in court to my right.

THE COURT: Thank you.

Counsel, it is my understanding that we are here for two alleged supervised release violations, the first of which, number one, is committing the crime of unlawful possession of a firearm on October 31, 2023, in violation of the mandatory condition; and number two, committing the crime of hit-and-run on October 31, 2023, in violation of the mandatory condition.

1 As I understand it, Mr. Rezene has denied both of those;
2 and, therefore, the government needs to put on a case in an
3 attempt to persuade the Court.

09:07:14

4 The defense filed one motion, which I believe is titled
5 something to the effect of Exclude Hearsay Evidence at the
6 Evidentiary Hearing.

7 Do you wish to argue that, Mr. Black? I can tell you that
8 I've read it and I think I'm well acquainted with it.

09:07:34

9 MR. BLACK: Your Honor, we don't have anything in
10 addition to the written materials.

11 THE COURT: All right. Then I am denying that motion
12 at this time, which is found in the docket at 137.

13 Is the government ready to proceed?

14 MR. GREENBERG: Yes, Your Honor, we are.

09:07:45

15 THE COURT: All right.

16 MR. GREENBERG: If I could have one moment with one of
17 the witnesses who just walked in?

18 THE COURT: Yes.

19 (Off the record.)

09:08:31

20 MR. GREENBERG: Your Honor, our first witness will be
21 Officer Brent Welte.

22 THE COURT: Thank you.

23 THE CLERK: Raise your right hand.

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BRENT WELTE,

called as a witness on behalf of the Government, having been
first duly sworn, was examined and testified as follows:

THE WITNESS: I do.

09:09:02 THE CLERK: Please take the stand.

Please state your name and spell it for the court reporter.

THE WITNESS: My name is Officer Brent Welte, spelled
W-e-l-t-e.

THE COURT: You may inquire.

09:09:19 MR. GREENBERG: Thank you, Your Honor.

DIRECT EXAMINATION

BY MR. GREENBERG:

Q. Officer, where are you employed?

A. I'm sorry, can you say that question again?

09:09:26 Q. Where are you employed?

A. With the Seattle Police Department.

Q. How long have you been with Seattle PD?

A. Almost two years now.

09:09:36 Q. And what -- what's your duty right now? What's your
assignment?

A. I'm currently assigned to the third watch, North Precinct.

Q. And during the two years you've been with SPD, has that
been your primary assignment?

A. Yes. It's been my only assignment.

09:09:49 Q. I'm going to be asking you questions about an event that

1 occurred in the early morning hours of October 31st, 2023.

2 Were you on duty at that time?

3 A. Yes, sir.

4 Q. And were you with a partner?

09:10:04 5 A. I was.

6 Q. Who is that?

7 A. Officer Hugg.

8 Q. At about 12:49 a.m., were you dispatched to an incident?

9 A. I was.

09:10:16 10 Q. And what was that?

11 A. It was a collision at 105 and Aurora.

12 Q. Okay. I'm going to show you -- oh, sorry.

13 MR. GREENBURG: Your Honor, I did neglect two things
14 before we started. If I could, at this time, I'm going to move
09:10:31 15 to admit all of our exhibits, Exhibits 1 through 28. I've
16 spoken to Mr. Black about that. There are no objections to the
17 exhibits, apart from the hearsay objection that the Court
18 already ruled upon. So rather than do this one at a time, we
19 would move Exhibits 1 through 28 into evidence.

09:10:51 20 THE COURT: Mr. Black, any objection?

21 MR. BLACK: No, Your Honor.

22 THE COURT: Then Exhibits 1 through 28 are admitted
23 and may be published.

24 (Government Exhibits 1-28 admitted.)

09:10:59 25 MR. GREENBERG: Thank you, Your Honor.

1 BY MR. GREENBERG:

2 Q. Okay. Officer Welte, I'm going to show you Exhibit 1.
3 It's a photograph here.

09:11:12

4 Is this a photograph of the scene that you responded to
5 that you just described?

6 A. Yes, sir.

7 Q. Okay. And going to Exhibit 2, you see a vehicle on its
8 side crashed into a tree; correct?

9 A. Yes, sir.

09:11:26

10 Q. And about -- I think you said where this was, but
11 approximately what location was this?

12 A. 105 and Aurora.

13 Q. Okay. Are you familiar with this building that is shown in
14 the photograph that the car just barely stopped short of?

09:11:45

15 A. I am.

16 Q. What is that?

17 A. It's the DSE Aurora House.

18 Q. And what goes on in that facility?

09:11:56

19 A. It's emergency housing for people transitioning from
20 homelessness.

21 Q. I want to show you Exhibit 3.

22 Is this another photograph of the crashed vehicle?

23 A. Yes, sir.

09:12:13

24 Q. And Exhibit 4, was this the license plate on the vehicle
25 that was crashed?

1 A. Yes, sir.

2 Q. Now, looking at Exhibit 5, what are we looking at here?

3 A. We're looking at -- the vehicle is on its side. We're
4 looking through the sunroof of where it was.

09:12:29 5 Q. Okay. So I guess we can see a lot of smashed glass. Is
6 this -- was this a glass sunroof, then?

7 A. Yes, sir.

8 Q. Okay. And so you were able to see into the vehicle,
9 basically, just kind of standing along the side, looking through
10 this broken glass?

09:12:45

11 A. Yes, sir.

12 Q. Okay. And what portion of the vehicle is this that I'm
13 sort of highlighting with the cursor?

14 A. That would be the backseat, sir.

09:12:56

15 Q. Okay. And then moving to Exhibit 6, is this sort of the
16 same vantage point, but in the front-seat area?

17 A. Yes, sir.

18 Q. Are you familiar with what -- with a substance called
19 whippets?

09:13:20

20 A. Very briefly.

21 Q. Okay. What is a whippet?

22 A. It's something that you can inhale to get a short,
23 temporary high.

24 Q. Did you find whippets on this accident scene?

09:13:30

25 A. I did.

1 Q. I'm going to show you Exhibit 7. Do these appear to be
2 still shots taken from your body camera video?

3 A. Yes, sir.

4 Q. All right. So the first photo in Exhibit 7, do you see on
09:13:52 5 the ground next to this vehicle there's a pink and purple item?

6 A. Yes.

7 Q. And by the way, who is this?

8 A. That would be Officer Walters.

9 Q. Okay. And then going to the second image.

09:14:07 10 THE COURT: Excuse me. Would someone identify who
11 Officer Walters is?

12 MR. GREENBERG: Yes.

13 BY MR. GREENBERG:

14 Q. Who is Officer Walters?

09:14:14 15 A. Officer Walters was employed with the Seattle Police
16 Department during the time of this call. He's now working in
17 Marysville.

18 Q. And is your understanding that he'll be here testifying
19 today as well?

09:14:25 20 A. Yes, sir.

21 Q. So looking at the second image of Exhibit 7, what is this
22 in Officer Walters' hand?

23 A. I'm not quite sure if that's the box of whippet [sic] or if
24 that's the actual whippet container itself. We found both on
09:14:43 25 scene.

1 Q. Okay. So this was the item that was on the ground outside
2 the car; correct?

3 A. Yes, sir.

4 Q. And then moving to the third image of Exhibit 7, was there
09:14:52 5 also another whippet canister found in the vehicle?

6 A. Yes, sir.

7 Q. And again, the last image, fourth image of Exhibit 7, does
8 this show, again, the whippet in the vehicle?

9 A. Yes, sir. That looks like the box. I don't recall if the
09:15:08 10 whippet was in the box or outside of the box.

11 Q. Okay. At some point while you were at the scene, did you
12 or another officer call for a tow truck?

13 A. I believe I did, sir.

14 Q. Okay. And did one arrive?

09:15:30 15 A. Yes.

16 Q. What was sort of the first thing that the tow truck did on
17 the scene?

18 A. Flip the vehicle back over so it was right side up.

19 Q. Okay. And then I want to show you Exhibit 8.

09:15:50 20 Is this a photograph of the vehicle once it had been put
21 right side up?

22 A. Yes, it is.

23 Q. And Exhibit 9, is this another shot of the vehicle showing
24 the front-end damage?

09:16:04 25 A. Yes, sir.

1 Q. Now, at some point after the vehicle was put on its wheels,
2 did you look inside of it?

3 A. I did.

4 Q. And what was your purpose in doing that?

09:16:22 5 A. I was trying to find a wallet, anything with some sort of
6 identification, so we could figure out who might have been
7 driving the vehicle.

8 Q. Okay. So what happened of note as you were initially
9 looking through the vehicle?

09:16:38 10 A. While looking through the vehicle, I found what appeared to
11 be a loaded firearm on the driver's side floorboard.

12 Q. Was that captured by your body camera?

13 A. I believe it was. I'm not quite sure if the camera
14 captured the actual gun itself.

09:16:55 15 Q. Okay. Well, let me show you Exhibit 10. There are a few
16 images. Do these, again, appear to be images taken from your
17 body camera video?

18 A. Yes, sir.

19 Q. So can you tell us what we're looking at here?

09:17:17 20 A. Right there is the -- what appears to be a loaded Glock
21 firearm.

22 Q. Where in the vehicle are we looking?

23 A. That would be the floorboard of the driver's side. You can
24 see kind of the center console near the bottom of the screen,
09:17:36 25 and then the driver's seat on the left side of the screen.

1 Q. And does this look like the brake pedal, or I assume it's
2 the brake pedal here, as well?

3 A. Yes, sir.

4 Q. So going to the second image, this one looks a little --
09:17:49 5 looks like you've shined a light in this area, or a light was
6 shining in this area; is that right?

7 A. Yes, sir.

8 Q. Okay. And is this the firearm right here?

9 A. Yes, it is.

09:18:01 10 Q. Okay. I'm going to go to the third -- looks like the third
11 and final image.

12 Again, a little brighter light showing the firearm?

13 A. Yes, sir.

14 Q. After you saw that firearm, what did you do?

09:18:19 15 A. I exited the vehicle and contacted my sergeant.

16 Q. And what discussion did you-all have?

17 A. We decided it would be best to pursue a search warrant to
18 seize the firearm, as opposed to taking it from plain view.

19 Q. Okay. And so what happened next?

09:18:38 20 A. After contacting my sergeant, the vehicle -- the vehicle
21 was towed to our North Precinct, where it sat in a secure
22 parking lot pursuant to the search warrant.

23 And then upon completion of the search warrant, I went into
24 the vehicle to retrieve the firearm.

09:18:58 25 Q. When did you apply for the search warrant in relation to

1 this incident, approximately?

2 A. I believe I applied that same night, or it would have been
3 when I came in early the same day.

4 Q. Okay. And did a state court judge approve your warrant?

09:19:16

5 A. Yes, sir.

6 Q. I'm going to show you Exhibit 11; is this the same vehicle?

7 A. Yes, it is.

8 Q. And where -- where is this? What's the scene here that
9 we're looking at?

09:19:35

10 A. That's the North Precinct. That's the back end of our
11 secured lot.

12 Q. Is this where the vehicle was towed after the incident?

13 A. Yes, sir.

14 Q. Okay. Looking at Exhibit 12, is this, again, another view
15 of the vehicle?

09:19:54

16 A. Yes, sir.

17 Q. Okay. And is this where you executed the search warrant?

18 A. Yes, it is.

19 Q. Let me show you Exhibit 13.

09:20:04

20 What are we looking at here?

21 A. We're looking inside the vehicle, the driver's --
22 passenger's -- the driver front passenger -- excuse me, the
23 front driver's side.

24 Q. Okay. And I'm going to zoom in. I'm going to circle what
25 looks like a red, dark red splotch. Do you see that?

09:20:26

1 A. I do.

2 Q. Do you recognize what that looks like?

3 A. It appears to be blood.

4 Q. Okay. I'm going to go to the next photo here, Exhibit 14.

09:20:46 5 Is this a closer-up view of what we were just looking at,
6 the driver's side floorboard?

7 A. Yes, it is.

8 Q. Do you see the firearm there?

9 A. Yes, sir.

09:20:54 10 Q. Exhibit 15, is this a closer-up shot of the firearm?

11 A. Yes, sir.

12 Q. And what is this?

13 A. The magazine well, with the magazine in it.

14 Q. Okay. Now going to Exhibit 16, what are we looking at
09:21:16 15 here?

16 A. The firearm on the hood of my vehicle, showing that it's
17 unloaded and how it had a round chambered inside as well.

18 Q. Okay. So how did the magazine get out of the gun?

19 A. I took it out.

09:21:31 20 Q. Were there rounds in the magazine?

21 A. Yes, sir.

22 Q. And there's one round of ammunition sitting on the hood
23 here. What's the significance of that?

24 A. That was the round that was chambered in the firearm.

09:21:44 25 Q. And then showing you Exhibit 17, what are we looking at

1 here?

2 A. The serial number for the firearm, which appears to have
3 been -- attempted to have been scratched off.

4 Q. Okay.

09:22:08

5 (Off the record.)

6 MR. GREENBERG: That's all I have for this witness,
7 Your Honor.

8 THE COURT: Cross-examination?

9 MR. BLACK: Thank you, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. BLACK:

12 Q. Good morning, Officer Welte. My name's Chris Black, and I
13 represent Mr. Rezene.

14 A. Good morning.

09:22:28

15 Q. So on the night in question, shortly after you arrived at
16 the scene, you searched the car; is that correct?

17 A. Yes, sir.

18 Q. And you said that you were searching for a wallet or some
19 form of ID?

09:22:43

20 A. Yes, sir.

21 Q. That was prior to having a warrant; correct?

22 A. That is correct.

23 Q. Did you believe that you had probable cause to search that
24 car?

09:22:51

25 A. I did. It was abandoned at the time.

1 Q. You believed that you had probable cause because it was
2 abandoned?

3 A. I believe I had probable cause because it was abandoned at
4 the time, but then we also found -- I'm not quite sure in what
09:23:06 5 relation I started searching for the car, from transitioning
6 from looking for a wallet, due to it being abandoned, to then
7 your defendant there was detained. And then I was searching for
8 a wallet to see if we could tie the vehicle to him.

9 Q. And you did that before you had a warrant; correct?

09:23:21 10 A. Correct.

11 Q. Okay. And did you ever find any ID in the car?

12 A. I did not. I did not.

13 Q. Or anything that tied Mr. Rezene to the car?

14 A. Not directly, no.

09:23:35 15 Q. You did find a gun on the floor of the car --

16 A. Yes, sir.

17 Q. -- correct?

18 You do not know how it got there?

19 A. No, I don't.

09:23:45 20 Q. You don't know who put it there?

21 A. No, I do not.

22 Q. You don't know how long it had been there?

23 A. No, sir.

24 Q. You don't know if it was there prior to the crash?

09:23:55 25 A. No, sir.

1 Q. Could have been put there after the crash?

2 A. Possibly, yes.

3 Q. There were people in the car when police arrived on the
4 scene; right?

09:24:07 5 A. There were witnesses at the scene, yes.

6 Q. Well, there were people rooting around in the car; isn't
7 that correct?

8 A. Not that I saw.

9 Q. Okay. The accident was very significant; is that correct?

09:24:23 10 A. Yes, sir.

11 Q. The car was totaled?

12 A. Yes, sir.

13 Q. Witnesses -- well, are you aware that witnesses described
14 the car as going 90 miles per hour before it crashed?

09:24:32 15 A. Not at the scene, no, no one had told me that.

16 Q. Okay. But, clearly, it was a significant accident
17 involving a lot of force that flipped the car completely over?

18 A. That is correct, yes, sir.

19 Q. That's the kind of thing that could certainly move
09:24:45 20 something inside the car around; is that correct?

21 A. Yes, sir.

22 Q. Including that firearm?

23 A. Yes, sir.

24 Q. So you can't say where the firearm was in the car prior to
09:24:55 25 the crash, assuming that it was in the car prior to the crash?

1 A. No, I cannot.

2 Q. Okay. Did you look for blood anywhere on the vehicle?

3 A. I did not.

4 Q. Did you see any blood anywhere on the vehicle?

09:25:08 5 A. At the scene when I was in the vehicle, I don't recall ever
6 looking for blood.

7 Looking back at the pictures here, you can see blood on a
8 part of the pillar that had broken off. But when I was in the
9 car, I wasn't looking for blood, nor do I remember seeing any.

09:25:21 10 Q. And then as to the whippets, the same basic analysis
11 applies as to the gun, right, they could have been anywhere
12 prior to the crash?

13 A. Yes, sir.

14 Q. Or, theoretically, even put there after the crash?

09:25:37 15 A. Yes, sir.

16 MR. BLACK: One moment, Your Honor, I just want to
17 check with my client.

18 (Off the record.)

19 MR. BLACK: Nothing further, Your Honor.

09:25:57 20 THE COURT: All right. Redirect?

21 REDIRECT EXAMINATION

22 BY MR. GREENBERG:

23 Q. I'm going to show you Exhibit 14. Is this the blood that
24 you were just referencing that you saw in the vehicle when you
09:26:15 25 did the search warrant?

1 A. Yes, sir.

2 MR. GREENBERG: That's all, Your Honor.

3 THE COURT: Recross?

4 MR. BLACK: Very brief, Your Honor.

09:26:23

5 RECROSS-EXAMINATION

6 BY MR. BLACK:

7 Q. That blood that you just identified in Exhibit 14, what
8 part of the car is that, that that was on, if it would have been
9 attached?

09:26:33

10 A. It looks like part of the C pillar.

11 Q. Can you explain what the C pillar is?

12 A. If you're looking at your door, the part of the -- if
13 you're inside your vehicle, the pillar on your left side between
14 like your steering wheel and your door, that kind of part that
15 rests right there supporting the top of the car, that would be
16 your C pillar.

09:26:50

17 MR. BLACK: Okay. Thank you. Nothing further.

18 THE COURT: Anything further, Counsel?

19 MR. GREENBERG: No, Your Honor.

09:26:58

20 THE COURT: And you may step down, Officer. Thank
21 you.

22 MR. GREENBERG: Your Honor, our -- the next witness we
23 plan to call, as you just learned, is now at Marysville PD and
24 he is running a little late due to traffic. He's about
25 10 minutes out. But we can call the defendant's father slightly

09:27:22

1 out of order. I apologize for that, but we'll do that.

2 THE COURT: Not a problem.

3 MR. GREENBERG: Okay. And, your Honor, what we'll do
4 is kind of skip to the end of the police contact when Officer
09:28:24 5 Walters had a phone call with the parents, and then we'll put
6 that into context with the next witness.

7 THE CLERK: Come on up.

8 Please come forward.

9 Just stand here for a moment.

09:29:01 10 Raise your right hand.

11 NEGUSE NAIZGHI,

12 called as a witness on behalf of the Government, having been
13 first duly sworn, was examined and testified as follows:

14 THE WITNESS: I will.

09:29:09 15 THE CLERK: Thank you. Please take the stand.

16 Please state your name and spell it for the court reporter.

17 THE WITNESS: Hi. My name is Neguse Naizghi.

18 THE CLERK: Could you please spell that?

19 THE WITNESS: Okay. My name is spelled N-e-g-u-s-e,
09:29:37 20 last name spells N-a-i-z-g-h-i.

21 THE COURT: You may inquire.

22 Good morning, sir.

23 MR. GREENBERG: Thank you, Your Honor.

24 ///

25 ///

DIRECT EXAMINATION

BY MR. GREENBERG:

Q. Good morning, sir. Hi.

What's your relation to the defendant here, Samuel Rezene?

A. I'm his dad.

Q. On the night that he was arrested, were you in the house with him?

A. Yeah. Before he leave the house, we were together --

Q. Okay.

A. -- at the living room.

Q. Okay. And was he living at the house at that time?

A. Huh?

Q. Was he living at the house during that time?

A. I can barely hear you.

Q. Was he living at the house during that time?

A. Yeah.

Q. Okay. Now, you recall that night there was a phone call that you and your wife received from a police officer?

A. Yes, sir.

Q. And I recently played that for you in another proceeding; correct?

A. Yes.

Q. Okay. I'm going to play that again for you now.

And then after we play it, I'll have some questions for you.

1 A. Okay.

2 MR. GREENBERG: And, Your Honor, it's about
3 10 minutes.

4 (Exhibit played.)

09:31:29 5 MR. GREENBURG: Sorry. I'm going to pause it there.

6 BY MR. GREENBURG:

7 Q. Do you recognize the woman's voice?

8 A. Yeah. My --

9 Q. Who is that?

09:31:34 10 A. My wife.

11 Q. Okay. The defendant's mother?

12 A. Yeah.

13 (Exhibit played.)

14 BY MR. GREENBURG:

09:31:36 15 Q. Okay.

16 Okay. Sir, were the things that you told the officer true?

17 A. Say it again.

18 Q. Were the statements you made to the officer, were those
19 correct, were those true?

09:42:12 20 A. Yeah, that's correct. Even I gave my statement last time
21 when I was here.

22 Q. Yeah. Okay.

23 A. It's the same. Nothing change.

24 Q. I understand.

09:42:19 25 You heard the officer say that there was a gun found in the

1 car. Do you have any guns?

2 A. No. I never had a gun.

3 Q. Okay. And as far as you know, does your wife have any
4 guns?

09:42:35

5 A. No.

6 MR. GREENBERG: Nothing further, Your Honor.

7 THE COURT: Cross-examination.

8 MR. BLACK: Thank you, Your Honor.

9 CROSS-EXAMINATION

09:42:45

10 BY MR. BLACK:

11 Q. Good morning. I'm Chris Black. I represent your son,
12 Mr. Rezene.

13 Just a few questions.

14 THE COURT: Mr. Black, can you use the microphone?

09:42:59

15 MR. BLACK: Sorry, Your Honor. Of course.

16 BY MR. BLACK:

17 Q. You said that Mr. Rezene left the home at some point
18 earlier that night before you got that call?

19 A. Can you repeat that for me?

09:43:15

20 Q. Yeah.

21 You said that Mr. Rezene, when you were testifying, had
22 left the home earlier that night before you got the phone call;
23 is that correct?

24 A. Yes.

09:43:25

25 Q. You don't know exactly when that was, though; is that also

1 correct?

2 A. Yeah.

3 Q. It was, I believe you said, sometime around 11:30?

09:43:40

4 A. 11:30, we were together, and I was going to sleep. I told
5 him, I'm going to sleep. He said he's going to stay at home.
6 But I slept, and then my wife got a call like we hearing in the
7 statement, and she wake me up, you know. So that's the time I
8 was talking to the officer.

9 Q. So you didn't actually see Mr. Rezene leave with the car?

09:44:03

10 A. Huh?

11 Q. You did not actually see Mr. Rezene leave with the car?

12 A. No, I didn't see him.

13 Q. Okay. You just, uhm -- you went to bed and then woke up
14 and saw that the car was gone?

09:44:15

15 A. I saw, yeah, the car was gone. And then we got the call
16 from the police, too, yeah.

17 Q. Okay. And after you went to sleep, did you see your son
18 again?

19 A. No.

09:44:27

20 Q. Okay. I mean, did you like check in his bedroom to see if
21 he was in there?

22 A. Yeah. He left.

23 Q. I mean, did you just assume that he left because the car
24 was gone or did you actually check in his room to see that he
09:44:41 25 wasn't there?

1 A. No. When I check outside through the window, I seen the
2 car was gone. So I didn't check his room, but I know he's not
3 in his room when the car is not there.

09:44:55

4 Q. Okay. But you're just assuming that he took the car, you
5 didn't see him take it?

6 A. Correct.

7 Q. Okay. And assuming that it was your son who took the car,
8 you don't know where he would have gone after he left the house;
9 is that correct?

09:45:12

10 A. Yeah.

11 Q. Or if he was with anybody?

12 A. No. I didn't see anybody, because the car was gone, so I
13 cannot check or I cannot prove anybody when the car is gone.

09:45:30

14 Q. And -- and did your son drive that car regularly before
15 that night?

16 A. Sometimes, yeah.

17 Q. "Sometimes, yeah"?

18 A. Yeah.

09:45:41

19 Q. And do you know if he ever drove around with other people
20 in the car?

21 A. I cannot tell that.

22 Q. Okay. Do you know if your son has a lot of friends?

23 A. He might have, yeah, but I cannot -- I don't see anybody,
24 you know.

09:45:53

25 Q. Okay. So you don't really know them?

1 A. Yeah.

2 Q. Okay. And just to clarify, you've never seen your son with
3 a firearm; is that correct?

4 A. No.

09:46:06 5 MR. BLACK: Okay. Thank you.

6 Nothing further, Your Honor.

7 THE COURT: Redirect?

8 MR. GREENBERG: No, Your Honor.

9 THE COURT: All right. Sir, you may step down.

09:46:16 10 Sir, you may step down.

11 THE WITNESS: Huh?

12 THE COURT: You may step down. You're done.

13 THE WITNESS: I'm done?

14 Thank you.

09:46:35 15 THE COURT: Thank you.

16 MR. HOBBS: Come all the way through here.

17 MR. GREENBERG: Your Honor, our next witness, and I
18 believe our last, will be Officer Patrick Walters, who I'm told
19 is entering security.

09:46:56 20 THE COURT: All right. So you will not be calling...

21 MR. GREENBERG: What's that, Your Honor?

22 THE COURT: You will not be calling Mr. Rezene's
23 mother?

24 MR. GREENBERG: No, Your Honor.

09:47:10 25 She's here. I've told Mr. Black that we did not intend to

1 call her, but she's available for the defense to call if they so
2 choose.

3 THE COURT: Thank you.

09:48:08

4 MR. BLACK: Your Honor, I apologize, one quick matter
5 before Officer Walters takes the stand, which is that my client
6 has requested that his parents be allowed to attend the
7 remainder of this hearing since they will no longer be witnesses
8 this morning. I'm not planning to call Mr. Rezene's mother.
9 The government has indicated that it doesn't object.

09:48:26

10 MR. GREENBERG: No objection.

11 THE COURT: I see no reason why they shouldn't be in
12 the audience.

13 MR. BLACK: Thank you, Your Honor. I'll just go let
14 them know that.

09:48:34

15 THE CLERK: Please come forward.

16 THE COURT: You may come forward, sir.

17 THE CLERK: Raise your right hand.

18 PATRICK WALTERS,

09:48:40

19 called as a witness on behalf of the Government, having been
20 first duly sworn, was examined and testified as follows:

21 THE WITNESS: I do, ma'am.

22 THE CLERK: Thank you. Please take the stand.

23 (Off the record.)

09:49:06

24 THE COURT: We're going to get you introduced, but we
25 need to get the parents in first.

1 THE WITNESS: Of course.

2 THE COURT: Actually, it's the lawyer that's critical.

3 (Off the record.)

4 THE COURT: You may inquire. Oh, we haven't --

09:49:36

5 THE CLERK: Yes. Sorry.

6 Please state your name and spell it for the court reporter.

7 THE WITNESS: Patrick Walters, P-a-t-r-i-c-k; last
8 name Walters, W-a-l-t-e-r-s.

9 DIRECT EXAMINATION

10 BY MR. GREENBERG:

11 Q. Good morning, sir.

12 Where are you employed currently?

13 A. Currently, I work with the Marysville Police Department.

14 Q. As you know, you're here to testify about an incident that
15 occurred in the early morning hours of October 31st, 2023.

09:49:59

16 At that time, where were you employed?

17 A. I was employed with the Seattle Police Department at that
18 time.

19 Q. How long had you been with the Seattle Police Department?

09:50:13

20 A. October -- roughly four years.

21 Q. What were your duties while you were with SPD?

22 A. I was assigned to patrol. I worked third watch in the
23 North Precinct area during that time.

24 And before that, I was in the South Precinct.

09:50:27

25 Q. And were you on patrol the night of this incident?

1 A. I was, sir.

2 Q. Okay. And just without getting, you know, too deep into
3 it, what led to your switch from SPD to Marysville PD?

09:50:46

4 A. General quality of life updates. I live up north and so
5 the commute is much shorter.

6 Q. Yeah.

7 As you found out this morning; is that right?

8 A. Yes.

09:50:56

9 Q. Okay. All right. Let's talk about the night of -- early
10 morning hours of October 31st, then, 2023.

11 Did you have a partner when you were on patrol that night?

12 A. I did, sir.

13 Q. Who is that?

14 A. Officer Cannon.

09:51:07

15 Q. And was that a longtime partner for you?

16 A. Yeah. As soon as we switched over the scheduling to the
17 four tens, we ended up in the same V area, and so just made
18 sense to ride together.

09:51:22

19 Q. Okay. How long had you been partners with Officer Cannon
20 at that point, approximately?

21 A. I want to say about a year.

22 Q. So at about 12:46 in the morning, were you dispatched to an
23 incident?

24 A. Yes, sir, I was.

09:51:39

25 Q. And what was that?

1 A. It was a single-car collision, rollover.

2 Q. Where was that?

3 A. It was at 105 and Aurora, southbound.

4 Q. When you arrived, what did you see?

09:51:53 5 A. So when I arrived on scene, I saw a white SUV, newer model.
6 It was on the -- it was at the west side of the road right in
7 front -- right at the northwest corner of 105 and Aurora. There
8 was a tree down, tree was in multiple pieces across the roadway,
9 and the vehicle was on its side.

09:52:11 10 Q. Okay. And I'm showing you Exhibit 1.

11 We've already seen these, but Exhibit 1, Exhibit 2,
12 Exhibit 3, is this the vehicle you saw?

13 A. It is, sir.

14 Q. Okay. I'm going to show you Exhibit 7.

09:52:33 15 These are some still photos that were taken that have
16 already been admitted, taken from Officer Welte's body camera.
17 Is that you?

18 A. Yes, it is, sir.

19 Q. Okay. And you had a lot more facial hair at that time, it
09:52:50 20 appears?

21 A. I did, sir.

22 Q. Okay. What are you doing in these first two images? It
23 looks like you're bending over and looking at an object on the
24 ground, and then you picked it up. What is that?

09:53:03 25 A. Yeah. It -- could you scroll back up to the top one? Oh,

1 okay, I see.

2 So it's a large canister of -- like a whippet can, some
3 type of compressed air or compressed chemical.

09:53:19

4 Q. Okay. And then, I'm going to ask you about that in a
5 second, but before I do, was there also another similar whippet
6 item found in the car as we're seeing here?

7 A. Yes, sir.

8 Q. Okay.

9 A. I recall two.

09:53:34

10 Q. Two in the car and one on the ground?

11 A. Two in total.

12 Q. Two total, okay.

13 Do you have training in -- that allows you to explain to
14 the Court what a whippet is?

09:53:46

15 A. I do, sir. I'm ARIDE trained.

16 Q. What's ARIDE?

17 A. It's Advanced Roadside Impairment Detection.

18 Q. And what does that train you to do?

09:53:59

19 A. And so everyone goes through -- during the academy, you go
20 through the basic DUI course to detect alcohol impairment and
21 other minor impairments that could lead to a DUI. If you choose
22 so, you can take ARIDE, which is an advanced impairment, which
23 teaches you about different drug categories and how they affect
24 the body, and kind of goes to that next level before a DRE.

09:54:15

25 Q. Okay. What did you learn in the ARIDE training regarding

1 whippets, you know, what it does to someone's body, how long it
2 lasts, that kind of thing?

3 A. So whippets can be used in a variety of different things.
4 It's an inhalant is one of the things, the classification. And
09:54:34 5 in layman's terms, it -- pretty much you suck in a bunch of
6 chemicals and it suffocates the brain, giving a euphoric
7 feeling. It lasts a very short period of time. We call it
8 volatile in the system. And usually, within three to five
9 minutes, it's gone from the system and it's no longer detectable
09:54:50 10 by like a blood draw or anything like that. It dissipates in
11 the system very quickly.

12 Q. But is it something that gives you like a quick high, I
13 guess, in layman's terms?

14 A. Yeah. It produces a very euphoric feeling, usually they --
09:55:06 15 lethargic, oftentimes they pass out.

16 Q. After taking it?

17 A. Yeah, because they've suffocated the brain from oxygen, so
18 then just kind of out, and then a few moments later, they'll
19 come back to. And after a very short period of time, it's
09:55:16 20 almost impossible to know that they had done it.

21 Q. Okay. After you found the whippets on the scene, did you
22 and your partner, Officer Cannon, talk to a witness named Marvin
23 Smith?

24 A. Yes, we did, sir.

09:55:36 25 Q. And how did you come upon him?

1 A. So we were canvassing the area for evidence and witnesses.
2 He was brought to our attention at the bus stop to the south of
3 105. And was noted that he had seen and helped out in a
4 collision when it initially happened, prior to law enforcement
09:55:54 5 arriving.

6 Q. And your conversation with Marvin Smith was recorded on
7 your body camera; is that right?

8 A. Yes, sir; Officer Cannon's as well.

9 MR. GREENBERG: Okay. Your Honor, at this time, I'll
09:56:06 10 play a portion of Exhibit 18.

11 THE COURT: All right.

12 (Exhibit played.)

13 BY MR. GREENBERG:

14 Q. Okay. So Marvin Smith, then, obviously we just heard, gave
09:58:55 15 you a description of the driver of the vehicle.

16 What did you do next?

17 A. At that point, we broadcasted an updated description and
18 then we did an area check in the direction he indicated.

19 Q. Okay. And when you say "we did an area check," who is
09:59:11 20 that?

21 A. Officer Cannon and I.

22 Q. In the area that Marvin Smith indicated that the driver
23 fled to?

24 A. Yes; west of 105, off of Aurora.

09:59:22 25 Q. Okay. So then walk us through what you did during -- or

1 what happened while you were doing this area check.

2 A. So as we were doing the area check, we were headed west on
3 105.

4 Once we came up to I believe it's about 107, there's a bar
09:59:37 5 there with red lights, I think it's Rick's Bar or Ron's Bar, I
6 can't remember the name exactly. As we were coming up there, we
7 saw a smaller-stature gentleman on a Lime scooter, like one of
8 the green scooters. I don't know if that was the company, but
9 one of the cit- -- one of the city scooter companies. He was
09:59:55 10 coming out of the bar area. He went west in front of us. And
11 he was roughly the same height. He had a hoodie on, and the
12 hood was up.

13 As we was going, we decided to get next to him just to kind
14 of see what the description was or if it matched. He kept
10:00:12 15 looking back. And then when he looked over, he turned one block
16 west, he turned north on Greenwood. And as he did that, I saw
17 some dreads come out of his hoodie, which kind of further
18 brought into -- you know, the description we'd had.

19 So we decided to get a little bit closer to see if we could
10:00:30 20 see any injuries or a face, see if that matched at all.

21 Went one block north on Greenwood, and then he took another
22 right down one of the side streets, which brought to my
23 attention, because if you're here and then you go -- and go like
24 that, it's kind of a U-shaped pattern, and he's traveling, which
10:00:47 25 is not typical. Then he made an immediate right again.

1 And as we followed and then we said, okay, that's -- we
2 have reasonable suspicion to stop him. He so far matches the
3 height, the weight, we have that same hair, you know, distance
4 from the collision, and time frame, and then making a kind of
10:01:07 5 very suspicious turnaround like that, we decided to stop him.

6 As we rounded the corner, we saw the Lime scooter dumped on
7 the ground and no one was there. We got up next to the vehicle,
8 activated our lights. I got out and looked to the left and I
9 saw a gentleman running across the field -- or, excuse me,
10:01:24 10 across the yard, and attempting to jump a field -- or, excuse
11 me, a fence.

12 And at that point, we detained him.

13 Q. Did you ultimately identify that person as the defendant,
14 Samuel Rezene?

10:01:39 15 A. Yes, we did.

16 Q. When you initially detained him and got a better look at
17 him, did he match, generally speaking, the description that you
18 got from Marvin Smith?

19 A. Yes, sir, he did.

10:01:55 20 Q. And in what ways?

21 A. He described him as mostly clean shaven. And although he
22 had a little bit of facial hair, his cheeks and stuff were very
23 clean. His height matched, weight matched, skin color matched,
24 his clothing matched, he had the right -- he had shoes on. I
10:02:11 25 remember noting that -- looking down and seeing bright white

1 stripes on Nike shoes, which is a pretty good description. He
2 did have light blue grayish jeans on.

3 And then when we inspected him further, underneath his
4 hoodie he had a short-sleeved shirt on.

10:02:29 5 Q. And did he have dreadlocks as well?

6 A. Yes, sir he did.

7 Q. Okay. So I'm going to show you Exhibit 19. And it's a
8 little dark and hard to see, but is that Mr. Rezene at the time
9 you arrested him?

10:02:41 10 A. It is, sir.

11 Q. Okay. And you notice his right hand here has blood, I
12 think next to -- next -- Exhibit 20 and Exhibit 21 are close-ups
13 of that. Is that the way his hand appeared at the time?

14 A. It is, sir.

10:02:59 15 Q. And then I'm going to show you Exhibit 22. What are we
16 seeing here?

17 A. So that is the -- what I described as the Lime scooter, the
18 community scooter rental stuff, that was laying in the middle of
19 the road after we made our third right-hand turn.

10:03:17 20 Q. And then Exhibit 23 is a close-up. Is this the handle of
21 the scooter?

22 A. Yes, sir; the right handle.

23 Q. Okay. And what's the significance of this photograph?

24 A. So that's blood on the handle of the vehicle that matched
10:03:33 25 the same hand as the detainee at the time and -- which kind of

1 led back to that he was in a crash. If you remember, our
2 witness also had an injury on his hand, so we kind of put
3 together that there's -- you know, witness had a cut from
4 helping out, it's probable that the person who was in a
5 collision also had some injuries.

10:03:52

6 Q. Okay. And this may become a little clearer in a moment as
7 we listen to some of the statements that Mr. Rezene made, but in
8 terms of the timeline of events and what he later claimed to
9 you, what was the significance of blood being on the scooter
10 handle once -- when you found it abandoned on the road?

10:04:14

11 A. So when I initially questioned him about the injury on his
12 hand, he said he got it from trying to jump the fence, the same
13 fence that I had just seen him at, something to the effect of, I
14 just hurt my hand trying to jump over the fence.

10:04:31

15 But based on the fact that there's blood on the handle here
16 and the time frame from when I saw him on the scooter to when I
17 saw him at the fence, there's -- highly unlikely, some would say
18 impossible, to go back, injure yourself on the fence, come back,
19 grab the scooter, and then make it back to the fence a second
20 time. So I know that that blood was there prior to him
21 abandoning the scooter and prior to him trying to jump the
22 fence.

10:04:48

23 Q. Okay. So you just referenced speaking to Mr. Rezene. Did
24 you have occasion to do that sort of on and off as this
25 detention went on?

10:05:06

1 A. Yes, sir.

2 Q. And did Officer Cannon, as well, have an opportunity to
3 talk to Mr. Rezene?

4 A. Yes, sir, he did.

10:05:17 5 Q. Okay. I'm going to play portions of the conversations that
6 you had with him, but let me ask you just as we walk through
7 this, were there times during this discussion that you were
8 pulled away for other -- for other matters to...

9 A. Yes, sir.

10:05:37 10 Q. Just kind of like what sort of things were going on that
11 caused you to step away from Mr. Rezene, and then, you know,
12 maybe go back and join in?

13 A. So at this time, we had the primary incident seen on 105
14 and Aurora where we had officers investigating that and dealing
10:05:54 15 with the collision. And then we had our scene over on -- I
16 think it was 107 and -- just off of Greenwood, where we had
17 Mr. Rezene detained. So we had two different collisions -- or,
18 excuse me, two different scenes for the collision.

19 Q. Okay. And were you communicating with other officers at
10:06:11 20 the scene?

21 A. Yes. Yes.

22 Q. About how far away was the crash to where you detained
23 Mr. Rezene, approximately?

24 A. Roughly four blocks, maybe five.

10:06:27 25 Q. Okay.

1 A. It's been a while since I've been on that street.

2 Q. Okay. I am going to play a portion of Exhibit 18 just for
3 the record. This is going to be the 21-minute to 23-minute
4 portion.

10:06:48 5 Let me start this and then ask you something first here.

6 (Exhibit played.)

7 BY MR. GREENBERG:

8 Q. Does this appear to be your body camera?

9 A. Yes, sir, it is.

10:07:04 10 Q. Okay. I'm just going to play a two-minute clip here.

11 (Exhibit played.)

12 BY MR. GREENBERG:

13 Q. Okay. At this point, it looks like you're walking away.
14 Do you recall what you were going to do at this point?

10:09:25 15 A. Yes. At that time, I walked back over to the fenced area
16 to see because he was at a high fence and I couldn't see the
17 back side, so I walked to see if he'd dumped anything over
18 there, or thrown anything, left anything over there. And then
19 also to see about this fence when he claimed he injured himself
10:09:43 20 on it, to get a better look at what does that look like.

21 Q. Okay. While you were doing that, did Officer Cannon
22 continue to speak with Mr. Rezene?

23 A. I believe so. He'd be able to testify better on that.

10:10:02 24 Q. Well, I'm going to show you here Exhibit 28, which is
25 Officer Cannon's body camera.

1 MR. GREENBERG: And, Your Honor, I'm going to play the
2 23-minute mark to the 27-minute mark.

3 THE COURT: All right.

4 (Exhibit played.)

10:14:29 5 BY MR. GREENBERG:

6 Q. Okay. Officer, you described earlier, I think you used the
7 term "suspicious" in terms of the way Mr. Rezene was driving the
8 scooter, like making right turns constantly and in a circle; is
9 that correct?

10:14:48 10 A. Yes, sir.

11 Q. At the time that that was going on, did you have your blue
12 lights on at any point during that?

13 A. Initially, I don't recall, but by the end, yes.

14 As you can see when we walked up, we'd already left our
10:15:04 15 vehicle and our blue lights were on. The newer patrol vehicles,
16 when you put them into park, they change. So if you switch it
17 into drive, it will start doing a much larger red and blue
18 strobe. Once we put it into park, it will kind of slow the
19 strobing down, so that way we don't mess with everyone's
10:15:21 20 eyesight once we are stationary.

21 Q. And as you heard here, and I think we already had heard it
22 earlier, Mr. Rezene was trying to explain why he was driving the
23 scooter in that sort of evasive way by saying that he thought,
24 you know, you might have been someone out to get him, he's been
10:15:37 25 shot before; correct?

1 A. Yes, sir.

2 Q. Okay.

3 Okay. And then let me go back to your body camera,
4 Exhibit 18, again.

10:15:51 5 Did you rejoin the conversation at some point?

6 A. Yes, sir.

7 Q. Okay. I'm going to go to the 34:30 mark quickly.

8 (Exhibit played.)

9 BY MR. GREENBERG:

10:16:24 10 Q. Okay. And then it looks like you walked away there for a
11 minute?

12 A. Yes. I believe that was Officer Samuels handed me the
13 phone, saying that Officer Hugg was on the phone for me. She
14 was on scene at the collision.

10:16:34 15 Q. Okay. And then I'm going to just skip ahead a minute or so
16 to the 37-minute mark and then play the rest of your
17 conversation with Mr. Rezene.

18 (Exhibit played.)

19 BY MR. GREENBERG:

10:20:36 20 Q. Okay. And is that the end of your conversation with
21 Mr. Rezene there at the scene?

22 A. I believe so, yes.

23 Q. Okay. Now, shortly after that, did you learn that officers
24 on the scene of the crash found a firearm in the Yukon?

10:20:55 25 A. I did.

1 Q. How did you learn that information?

2 A. I believe Officer Samuels told me, just after we got done,
3 as I was turning away, I believe him and I had a short
4 conversation where he let me know that Hugg or Welte had brought
10:21:09 5 him up to speed on that.

6 Q. Okay. And do you recall learning where they found the
7 firearm in the car?

8 A. To my recollection, it was in the floorboard of the
9 driver's seat.

10:21:17 10 Q. Okay. At that point in time, you had already known and, in
11 fact, I think Mr. Rezene just told you or Officer Cannon that he
12 had -- that he was a convicted felon and that his last offense
13 was for unlawful possession of firearms; correct?

14 A. Not in so many words, but, yes.

10:21:43 15 Q. Okay. And then did you learn of a connection between
16 Mr. Rezene and the registered owner of the crashed Yukon?

17 A. Yes, we did.

18 Q. And was that you personally or were you learning this from
19 other officers, if you recall?

10:22:02 20 A. Semi-team effort, but I believe the primary information
21 came from my sergeant, Officer Belfiore.

22 Q. And what was the connection that was made?

23 A. The registered owner of the vehicle was Samuel's mother.

24 Q. At some point while Mr. Rezene was detained, did you ask
10:22:26 25 other officers to go back -- or to go -- that were at the scene

1 to go to that bus stop and see if they could find Marvin Smith
2 again?

3 A. I did.

4 Q. And what was your purpose in doing that?

10:22:38 5 A. So it's standard protocol if we have somebody detained and
6 we have a witness, to do a field show-up. So to have an officer
7 talk to him, pick him up, bring him to where our location is,
8 and see if he can identify the suspect.

9 Q. Okay. And what was the result of that?

10:22:57 10 A. He was no longer at the bus stop.

11 Q. Okay. And do you know if officers made an effort to try to
12 locate him by searching in like databases or SPD system or
13 anything like that?

14 A. Yes, we did.

10:23:09 15 Q. And what kind of efforts were made at that time?

16 A. So we looked up in RMS, which is the system, I believe
17 somebody looked up in the jail management system to see if that
18 name and date of birth came up with anything. We looked at CAD
19 history on our -- or, excuse me, Mark43 history, which is
10:23:27 20 Seattle's internal system for paper tracking, and we couldn't
21 find anything.

22 Q. Okay.

23 Okay. So at that point, you know there was a gun in the
24 car, Mr. Rezene was a felon, you heard the version of events
10:23:42 25 that he was giving you, and you know that his mom is the

1 registered owner of the car. Was a decision made to arrest him?

2 A. Yes.

3 Q. And for what offenses?

4 A. Hit-and-run and unlawful possession of a firearm.

10:23:56 5 Q. And then what happened with Mr. Rezene at that point?

6 A. Mr. Rezene was transported to the North Precinct.

7 Q. Okay. I'm going to show you Exhibit 24, which are some
8 stills.

9 Did you do the transport?

10:24:14 10 A. Yes, sir.

11 Q. Okay.

12 A. Myself and Officer Cannon.

13 Q. Okay. These are stills taken from your body camera just
14 showing some of the clothing that he was wearing.

10:24:27 15 So, here, you mentioned some like light-colored jeans. Are
16 those visible on this first image on Exhibit 24?

17 A. Yes.

18 Q. And then we'll see a better image later, but are these Nike
19 sneakers?

10:24:43 20 A. They appear to be, yes.

21 Q. And then the second image is a little clearer picture than
22 we saw before.

23 Mr. Rezene had dreadlocks; is that correct?

24 A. Yes, sir.

10:24:56 25 Q. And then the third image, did he have a T-shirt on under

1 this sweatshirt?

2 A. Yes, sir, black T-shirt, short sleeve.

3 Q. Okay. And showing you Exhibit 25, do you recognize this?

10:25:15

4 A. Yes, sir. Those are the shoes that he was wearing at the
5 time.

6 Q. Okay. And what was the significance of these shoes to you?

10:25:29

7 A. So -- and I noted when we first contacted, but the
8 significance is that our witness had said he had brand-new white
9 Nikes on. And although they're not completely white, that's a
10 sufficient amount of white for a witness to give that as a color
11 description.

12 Q. Okay. And they look fairly new; is that correct?

13 A. Yes.

14 Q. Okay. We saw on the video when you were speaking to

10:25:47

15 Mr. Rezene that he gave a phone number; correct?

16 A. Yes, sir. He said it was his phone number.

17 Q. At some point later on in the evening, did you call that
18 phone number?

19 A. I did, sir.

10:26:01

20 Q. And what was your initial purpose in calling it?

21 A. So, initially, we were trying to locate the phone because
22 he didn't have a phone on him when we searched him after the
23 arrest. We know that the Lime scooter, sometimes you have to
24 use a phone to log in to do it. So we were trying to figure out
25 where his personal property was. So we called the phone to see

10:26:20

1 if it would ring while we had an officer stand by the vehicle.

2 Q. And what happened?

3 A. The defendant's mother picked up.

4 Q. Okay. And did you have an initial phone call with the
10:26:33 5 mother and then a subsequent longer phone call with both the
6 mother and father of the defendant?

7 A. I did, sir.

8 Q. I'm going to play you just a short portion of your first
9 phone call with only the defendant's mother. And I'll preface
10:26:55 10 it by saying only the tail end and your end of this call was
11 picked up on your audio. Do you know why that was?

12 A. Yes, because I activated my body cam after making the phone
13 call. Initially, like I said, we weren't expecting anyone to
14 pick up the phone, we were just trying to locate it, see if we
10:27:14 15 hear ringing somewhere. So I didn't have my body cam activated
16 because we were in the precinct area, which is generally a
17 no-recording area. So when I called it and then somebody picked
18 up, I was a little -- caught a little off foot [sic] by that.
19 So I kind of tried to figure out who I was talking to, like
10:27:27 20 maybe a citizen had picked it up or something.

21 Once I realized it was the defendant's mother, then I went
22 ahead and activated my camera to capture the end of that.

23 Q. Okay. So we'll just play the tail end. This is
24 Exhibit 26.

10:27:53 25 (Exhibit played.)

1 BY MR. GREENBERG:

2 Q. Okay. So we heard you say "So at midnight was the last
3 time you saw him. Oh, and he was there all day."

10:28:32

4 Were you repeating what the defendant's mother was telling
5 you on the other end of the phone?

6 A. Yes, sir, I was.

7 Q. And then shortly after that, did you call that same phone
8 number and speak to both of his parents?

10:28:47

9 A. I did, sir. I went back to my patrol vehicle where it was
10 kind of a more controlled environment for noise and background
11 interference and made another call.

10:29:05

12 Q. Okay. Now, we've actually already listened to that this
13 morning, so I'm not going to play the whole recording for you
14 again, but I am going to play, with the Court's permission, just
15 two short snippets to confirm your understanding of this call.
16 If -- and the first I would play here is going to be right
17 around the six-minute mark. This is Exhibit 27.

18 (Exhibit played.)

10:29:34

19 MR. BLACK: Your Honor, I would object. This is
20 cumulative. It's already been introduced.

21 THE COURT: Overruled.

22 MR. GREENBERG: Sorry, I'm just going to go back.

23 (Exhibit played.)

10:30:23

24 MR. GREENBERG: All right. And then just a second
25 quick portion I'm going to play is around the eight-minute-ten

1 mark.

2 (Exhibit played.)

3 BY MR. GREENBERG:

10:31:00

4 Q. So both the father and the mother told you on this call
5 that Mr. Rezene was at home and then left with the car?

6 A. Yes.

7 And he left the residence by himself.

8 MR. GREENBERG: Okay. Nothing further, Your Honor.

9 THE COURT: Counsel, how long will you be?

10:31:19

10 MR. BLACK: It's always hard to say, Your Honor. I
11 would guess 15 or 20 minutes.

12 THE COURT: All right. We'll take a break, then.

13 MR. BLACK: Thank you, Your Honor.

14 THE COURT: We'll take a break until 20 minutes to

10:31:32

15 11:00.

16 THE CLERK: All rise. Court is in recess.

17 (Court at recess.)

18 THE CLERK: Please rise. Court is again in session.

19 THE COURT: Mr. Black, you're up.

10:48:04

20 MR. BLACK: Thank you, Your Honor.

21 CROSS-EXAMINATION

22 BY MR. BLACK:

23 Q. Good morning, Officer Walters.

24 My name is Chris Black, and I represent Mr. Rezene in this
25 case.

10:48:11

1 A. Good morning, sir.

2 Q. So on the night in question, you arrived at the scene of
3 the crashed vehicle sometime after the crash; correct?

4 A. Yes, sir.

10:48:23 5 Q. Obviously.

6 A. Yes, sir.

7 Q. About how long do you think?

8 A. You'd have to check the CAD dispatch notes for that. I
9 couldn't give you an accurate estimate. I would say shortly
10 thereafter.

11 Q. Within probably 10 or 15 minutes, something like that?

12 A. At least so, sir. The spot at 105 and Aurora and the
13 precinct are very, very close in proximity.

14 Q. When you arrived at the scene, there was no one in the
15 vehicle; correct?

16 A. Correct.

17 Q. And there was no one at the scene who appeared to you to be
18 the driver?

19 A. Correct, sir.

10:48:57 20 Q. In other words, somebody who had gotten out of the car and
21 was standing around or something like that?

22 A. Yes, sir. No one at the scene identified themselves as the
23 driver.

24 Q. And the crash appeared to be quite serious; is that fair to
10:49:09 25 say?

1 A. That's fair.

2 Q. It was -- the car was totaled and flipped over?

3 A. To my accounts, yes. I'm not a mechanic on that level, but
4 to my accounts, yes.

10:49:20 5 Q. Shortly after you arrived at the scene, you spoke to
6 somebody who had been rooting around in the car; is that
7 accurate?

8 A. No.

9 Q. "No"?

10:49:34 10 A. I spoke with somebody who had been rooting around in the
11 area, I can't say that they were rooting around in the car. I
12 didn't see them in the vehicle.

13 Q. Okay. Did any witnesses tell you that they had seen people
14 in the vehicle?

10:49:44 15 A. Other than the gentleman that I spoke with at the bus stop?

16 Q. Uh-huh.

17 A. Not to my recollection.

18 Q. Okay. So -- well, do you remember speaking to somebody who
19 was kind of in the trees right beside the car when you arrived?

10:50:00 20 A. I do, sir.

21 Q. Okay. Is that the person who you're talking about who was
22 seen close to the vehicle?

23 A. Yes, sir. We identified him back in the -- it was kind of
24 in the fallout of the tree on the west side of Aurora.

10:50:12 25 Q. Okay. So he was just seen close to the vehicle, but not in

1 it?

2 A. Correct.

3 Q. Okay. But close enough to reach in or something like that?

4 A. Not from when I saw him, no.

10:50:22 5 Q. Okay.

6 A. Or not when I spoke with him, no.

7 Q. Not when you spoke with him, but you don't know where he
8 was before you spoke with him?

9 A. Correct.

10:50:29 10 Q. Okay. And you don't know what he was doing when he was
11 around the car; is that correct?

12 You didn't see him there?

13 A. Yeah. So I didn't see him around the car, he was over on
14 the sidewalk in the trees. And to my recollection, he said he
10:50:48 15 was setting his bags down. He had -- he looked like a person
16 who is unhoused.

17 Q. Okay.

18 A. And he had multiple bags that he was setting off in the
19 corner.

10:50:57 20 Q. Okay. And after you spoke with that gentleman, you spoke
21 with another person across the street at the bus stop; is that
22 correct?

23 A. Yes, sir.

24 Q. He identified himself as Marvin Smith?

10:51:17 25 A. Yes, sir, he did.

1 Q. He provided a date of birth upon request; is that right?

2 A. Yes, sir.

3 Q. And he declined to give a phone number when one was
4 requested from him; is that correct?

10:51:27 5 A. Correct.

6 Q. To your knowledge, law enforcement has not been able to
7 locate Mr. Smith since this incident; is that correct?

8 A. To my knowledge, that is correct, sir.

9 Q. Mr. Smith told you that the driver of the vehicle was
10:51:48 10 knocked unconscious from the crash; is that correct?

11 A. Initially, he stated he passed out, crashed, and then woke
12 up.

13 Q. Okay. He said he was unconscious at the time of the crash;
14 is that correct?

10:52:00 15 A. Yes.

16 Q. And woke up after the crash?

17 A. Correct.

18 Q. He provided a description of the person who he said was the
19 driver; is that correct?

10:52:10 20 A. Yes, sir.

21 Q. Said he was short?

22 A. Yes.

23 Q. That he had dreadlocks?

24 A. Yes, sir.

10:52:16 25 Q. That he was about five-six?

1 A. I believe so, yes, sir.

2 Q. And that he was 120 or 110 pounds; is that correct?

3 A. Yes, sir.

4 Q. He also said that the driver was wearing a short-sleeve
10:52:30 5 shirt; is that correct?

6 A. Yes, sir, it is.

7 Q. He didn't mention anything about a jacket; is that correct?

8 A. Correct.

9 Q. He said he was wearing blue jeans; is that correct?

10:52:41 10 A. Yes, sir, it is.

11 Q. He said he was wearing brand-new white Nikes; is that
12 correct?

13 A. Yes, sir.

14 Q. He didn't say anything about the driver of the car having
10:52:54 15 any face tattoos; is that correct?

16 A. No, sir, he did not.

17 Q. When you ultimately interacted with Mr. Rezene that night,
18 did you notice that he has distinctive face tattoos?

19 A. I noticed he had a face tattoo, yes.

10:53:09 20 Q. Do you know that he has a cross between his two eyebrows?

21 A. I did.

22 Q. Can you see that from across the room here?

23 A. Yes, I can.

24 Q. Mr. Smith didn't mention anything about that, though;
10:53:23 25 correct?

1 A. He did not.

2 Q. Mr. Smith mentioned a number of times that the driver was
3 hurt and that he wouldn't be able to get far because he was
4 hurt; is that correct?

10:53:35 5 A. Yes, sir.

6 Q. Mr. Smith told you that he had tried to get into the
7 vehicle; is that correct?

8 A. Yes, sir. I believe his term was when he got in the
9 vehicle, yes.

10:53:46 10 Q. I'm sorry, can you say that again?

11 A. I believe his terminology was when he got in the vehicle.

12 Q. Okay.

13 A. So I -- yes.

14 Q. And he told you that he had cut his hand on the glass when
10:53:56 15 -- on the glass in the vehicle when he was trying to get into
16 it; is that correct?

17 A. Yes, sir, it is.

18 Q. And he had sort of a bandage or something that he was using
19 as a bandage on his hand?

10:54:04 20 A. Yeah. I'd describe it as makeshift bandage.

21 Q. Sure.

22 And so after you talked to Mr. Smith, you left in your
23 police vehicle to go try to find the person who was the driver;
24 correct?

10:54:19 25 A. Yes, sir, we did.

1 Q. And you eventually saw somebody, as you've described, who
2 was riding on a scooter?

3 A. Yes, sir.

4 Q. And that eventually turned out to be Mr. Rezene; correct?

10:54:32

5 A. Correct.

6 Q. So as you first encountered Mr. -- the person who turned
7 out to be Mr. Rezene, he dropped the scooter and tried to enter
8 a yard; correct? Or did enter a yard, rather?

9 A. Yeah. Clarify first encounter --

10:54:54

10 Q. When --

11 A. -- please.

12 Q. When you -- I guess you were following this person on the
13 scooter, and you called out or something, and the person dropped
14 the scooter and went into the yard; is that correct?

10:55:15

15 A. Correct. When we first got out of our vehicle to make
16 contact with Mr. Rezene, yes.

17 Q. Okay. And when you first -- when you called out to him in
18 the yard, you yelled at him to get down on the ground; correct?

19 A. That sounds accurate, yes.

10:55:32

20 Q. And you put him in handcuffs almost immediately?

21 A. Yes, sir.

22 Q. He was asking you what this was all about; is that correct?

23 A. Yes, sir.

24 Q. And you initially refused to tell him; is that correct?

10:55:45

25 A. No, sir.

1 Q. You didn't keep telling him, just be quiet, we'll get to
2 that, things along those lines?

3 A. So I was not refusing to tell him, we had bigger concerns
4 of officer safety, given the wider circumstances of it. But I'm
10:56:00 5 more than happy to tell him when it's safe and feasible to do
6 so.

7 Q. Okay. So you didn't tell him?

8 A. Correct.

9 Q. But you wouldn't characterize that as refusing?

10:56:08 10 A. Correct.

11 Q. Okay. You told him he matched the description of a
12 hit-and-run suspect; correct?

13 A. I did, sir.

14 Q. You, at some point, shortly after you began speaking with
10:56:21 15 him, read him his *Miranda* rights?

16 A. No, sir, Officer Cannon did, I believe.

17 Q. Okay. So one of the officers who was there did that?

18 A. Yes, sir.

19 Q. So it was pretty clear that you suspected Mr. Rezene of a
10:56:40 20 crime at that point?

21 A. Yes, sir.

22 Q. As we watched on video, you spoke with Mr. Rezene pretty
23 extensively that night?

24 A. I spoke with him a fair amount, yes, sir.

10:56:52 25 Q. We saw it --

1 A. Yeah.

2 Q. -- it doesn't really matter how you describe it, you talked
3 to him that night?

4 A. Yes, sir.

10:56:57 5 Q. When you were interacting with him, he was speaking
6 normally?

7 A. Correct, sir. Never having previous interactions with him,
8 he was speaking like a normal person in full sentences would.

9 Q. Not slowly?

10:57:15 10 A. Correct.

11 Q. Not slurring his words?

12 A. Correct.

13 Q. Didn't appear to be groggy or anything like that?

14 A. Correct.

10:57:21 15 Q. Did he engage in -- excuse me, engaged you in conversation?

16 A. To an extent, yes, sir.

17 Q. He didn't do anything indicating that he was in pain?

18 A. No. Well, he did state that his hand hurt.

19 Q. Nothing beyond that, though?

10:57:39 20 A. No, nothing beyond that.

21 Q. When you encountered Mr. Rezene, he was wearing a dark
22 jacket; is that correct?

23 A. Actually, sir, let -- may I correct my previous statement,
24 Your Honor?

10:57:57 25 THE COURT: Yes.

1 BY MR. BLACK:

2 Q. Of course.

3 A. So at the jail, he did complain of pain from falling from a
4 high fence. And he was taken to the hospital for evaluation.

10:58:05 5 Q. So that was at the --

6 A. At the jail --

7 Q. -- at the jail?

8 A. -- during the booking process, they ask questions. He'd
9 stated that he hurt himself falling from a -- falling off of a
10 fence, and then he was taken to the hospital for evaluation.

10:58:16

11 Q. Okay. Thank you for that clarification.

12 So when you first encountered Mr. Rezene, he was wearing a
13 dark jacket; is that correct?

14 A. Yes, sir.

10:58:38

15 (Off the record.)

16 MR. BLACK: Pulling up Exhibit 19, Your Honor.

17 BY MR. BLACK:

18 Q. If you could take a look at that, that's the jacket he was
19 wearing when you first saw him?

10:58:43

20 A. Yes, sir.

21 Q. Okay. So when you first saw Mr. Rezene on the scooter, you
22 didn't know whether he had a T-shirt on or not; is that correct?

23 A. Yes, sir; correct.

24 Q. Okay. Because he was wearing a dark jacket?

10:58:57

25 A. Yes, sir.

1 Q. You had to open his jacket, as we saw, to see that he had a
2 T-shirt --

3 A. Yes, sir.

4 Q. -- is that correct?

10:59:04 5 A. I saw the collar, but, yes, sir.

6 Q. Was there any indication from Mr. Smith that the driver was
7 carrying a jacket when he left the car?

8 A. No. He didn't make any indication, sir.

9 Q. Okay. Is there any evidence of the driver of that car
10:59:26 10 picking up a jacket along the way anywhere?

11 A. There was no information for or against whether or not he
12 obtained clothing afterwards.

13 Q. Okay. It was just a few minutes later, though; right?

14 A. Yes, sir.

10:59:37 15 Q. Okay. Mr. Rezene, again, looking at the -- at the exhibit
16 here, appears to be wearing white pants; is that accurate?

17 A. In this exhibit, yes, sir.

18 Q. Okay. And he's wearing sneakers that are primarily black;
19 is that fair to say?

11:00:04 20 A. That is fair to say, sir, yes.

21 Q. Okay. The -- there's a Nike symbol on these sneakers?

22 (Off the record.)

23 BY MR. BLACK:

24 Q. Turning to Exhibit 25, so these are the sneakers that
11:00:25 25 Mr. Rezene was wearing; correct?

1 A. Yes, sir.

2 Q. Okay. So there's a white Nike swoosh on the sneaker, but
3 it's pretty small, say maybe about -- looks like an inch?

4 A. The Nike symbol?

11:00:42

5 Q. Yeah.

6 A. I'd say, yeah.

7 Q. Okay. But, otherwise, the shoes are mostly black with a
8 white kind of ring around the sole?

9 A. It appears to me that the entire sole is white, yes.

11:00:56

10 Q. Fair enough.

11 And this compares to what Mr. Smith described as brand-new
12 white Nikes; correct?

13 A. Yes.

14 Q. You never ended up taking Mr. Rezene to be identified, or
15 not, by Mr. Smith; is that correct?

11:01:17

16 A. Yes, sir.

17 Q. When you were speaking with Mr. Rezene, he told you that he
18 had been with his girlfriend, or a person he described as a
19 girlfriend and a wife at various points, earlier that night; is
20 that correct?

11:01:37

21 A. That's correct, sir.

22 Q. And he offered to take you to the place where she was; is
23 that correct?

24 A. Yes, sir, he did offer.

11:01:44

25 Q. But you did not take him up on that offer; is that correct?

1 A. I respectfully declined.

2 Q. To your knowledge, has the firearm recovered from the
3 vehicle in this case been tested for DNA?

4 A. Not to my knowledge.

11:02:01 5 Q. What about fingerprints?

6 A. Not to my knowledge, sir.

7 Q. Do you know if the blood that was on the car pillar has
8 been tested in any way?

9 A. I do not know, sir, left or right of that answer.

11:02:19 10 MR. BLACK: One moment, please, Your Honor.

11 (Off the record.)

12 MR. BLACK: Nothing further, Your Honor.

13 THE COURT: All right. Redirect?

14 MR. GREENBERG: I don't have anything, Your Honor.

11:02:50 15 THE COURT: The Court has one question.

16 EXAMINATION

17 BY THE COURT:

18 Q. Were the keys ever recovered?

19 A. Not to my knowledge, Your Honor.

11:02:57 20 THE COURT: Thank you. You may step down.

21 THE WITNESS: Thank you, Your Honor.

22 (Off the record.)

23 THE COURT: Good luck getting back to Marysville.

24 THE WITNESS: Thank you, Your Honor.

11:03:17 25 MR. GREENBERG: And, Your Honor, one other matter, I

1 spoke to Mr. Black about this yesterday. The parties are
2 stipulating to the fact that the firearm that was seized is a
3 real firearm and that the ATF has confirmed that it had traveled
4 in interstate commerce.

11:03:36

5 THE COURT: Is that correct?

6 MR. BLACK: That's correct.

7 THE COURT: All right.

8 MR. GREENBERG: The government has no further
9 witnesses, Your Honor.

11:03:42

10 THE COURT: Mr. Black, does the defense wish to call
11 any witnesses?

12 MR. BLACK: Your Honor, the defense is not calling any
13 witnesses.

11:03:51

14 And I do want to just quickly note that I recognize that I
15 had asked for a number of continuances of this hearing for the
16 reason of securing witnesses. And I assure the Court's that
17 that was all in good faith, but subsequent events have changed
18 our plan for that, so we have no witnesses, Your Honor.

11:04:09

19 THE COURT: All right. Then I will hear closing
20 arguments.

21 MR. GREENBERG: Thank you, Your Honor. I'll be brief.

11:04:31

22 We submitted a brief ahead of time to the Court, and the
23 Court has seen the evidence, but on the standard that we're here
24 before the Court today to address, which is a -- whether it's
25 more likely than not that Mr. Rezene was the driver of this car

1 and possessed that weapon, we think the evidence very clearly
2 establishes both of those things.

3 There is a variety of things I'll point to first. The
4 identification from Mr. Smith that while not 100 percent
11:05:06 5 perfect, it's quite remarkably accurate. This is a black male,
6 height, weight match, dreadlocks, relatively clean shaven,
7 young, male, yes, blue jeans, they were sort of light-colored
8 jeans. He did have a T-shirt, and he had brand-new Nike shoes
9 on, which they're not all white, but there's quite a bit of
11:05:31 10 white on them.

11 And in the heat of the moment, with Marvin Smith
12 essentially rescuing Mr. Rezene out of that car, for him to come
13 up with that detailed of a description and for the officers to
14 have found such a matching description only blocks away, I think
11:05:48 15 speaks volumes.

16 But, of course, on top of that, we know that Mr. Rezene was
17 only blocks away on a scooter with apparently nothing else going
18 on. His account of why he was there and what he was doing is
19 completely ridiculous, that he was visiting a girlfriend who
11:06:08 20 didn't have a phone. He didn't know where she lived. He was
21 going to the liquor store. He wasn't driving a car, yet he
22 somehow got what he claims from Burien all the way up to North
23 Seattle, that was probably also a lie. It sounds like he had
24 been at his parents' house, which is in South Seattle, also
11:06:27 25 quite a distance away. So really no reasonable explanation

1 coming from Mr. Rezene.

2 Of course, we know that the -- this was his family's car,
3 his mother's car.

11:06:43

4 We know from the statements that the parents made that he
5 had left the house with that car around 11:30 or midnight. So
6 within an hour of that crash, which the math adds up if you were
7 going to leave from South Seattle and get up to North Seattle,
8 that's about -- that makes good sense.

11:07:09

9 On top of all of that evidence, Your Honor, we also have an
10 absence of any other explanation. The defendant claimed to the
11 police that he was visiting his girlfriend. That -- she's not
12 here to say anything about that.

11:07:29

13 There was information conveyed to the Court by the defense
14 that there would be witnesses to talk about how there was like a
15 carjacking incident that happened here and that that's what this
16 was all about and Mr. Rezene wasn't driving that car. That is
17 not presented to this Court; as incredible as that would have
18 been, there's nothing offered here at all.

11:07:48

19 And so we would submit that the overwhelming evidence is
20 that the defendant committed that hit-and-run accident and
21 possessed the gun in the car.

22 THE COURT: What is the government's view of the
23 evidence that the police are in a marked police car when they
24 encounter Mr. Rezene on the scooter? Is that correct?

11:08:12

25 MR. GREENBERG: Yes, that is correct.

1 THE COURT: And is there any explanation among the
2 evidence as to why he then translates that into someone was
3 there to kill me and I needed to flee across this yard?

4 MR. GREENBERG: I mean, that's just -- no, I mean, I
11:08:30 5 think that was part of the non-credible claims that Mr. Rezene
6 was making to the officers to explain the whole situation. And
7 that was my interpretation of that is -- and the offices were
8 asking him, well, why are you avoiding us? Why are you running
9 from us? And he -- that's what he came up with. He said
11:08:51 10 essentially, oh, I didn't realize it was police, I thought it
11 was someone out to get me. I've been shot before, that's why I
12 was evading you. So that's just one of the lies that I would
13 believe the defendant told that night.

14 THE COURT: All right. Thank you.

11:09:04 15 MR. GREENBERG: Yes, Your Honor.

16 THE COURT: Mr. Black.

17 MR. BLACK: Thank you, Your Honor.

18 Your Honor, there's no direct evidence that Mr. Rezene
19 possessed the firearm that night, wasn't -- it wasn't found in
11:09:22 20 his possession. There's no testing of DNA or fingerprints or
21 anything like that.

22 There is, admittedly, some evidence connecting him to the
23 allegations. The gun was found in a vehicle owned by his
24 family.

11:09:43 25 THE COURT: That he had borrowed that evening.

1 MR. BLACK: That he had potentially been in earlier
2 that evening. We would -- we would acknowledge that there's
3 testimony to that effect.

4 THE COURT: Well, the testimony, as I understand it,
11:09:57 5 this chronology is important to me, as I'm trying to get the
6 most balanced view that I can, his parents testified that it was
7 11:30, dad's going to bed, Mr. Rezene says, I'm going out, and
8 takes the key. And shortly thereafter, his dad looks out and
9 the car is not there anymore.

11:10:25 10 MR. BLACK: That's basically correct, Your Honor. I
11 believe -- so it was around 11:30. And I'm just trying to
12 recall, I don't want to misstate anything, whether his dad said
13 that -- that he saw Mr. Rezene with the key and getting ready to
14 leave, but there was some discussion of he might be going
11:10:44 15 somewhere. And then his dad went to bed, and then he saw the
16 car gone, but didn't confirm that Mr. Rezene was not there.

17 THE COURT: And that conversation occurred in his
18 parents' home. And his parents' home, I've been told, is some
19 distance from 105th and Aurora.

11:11:04 20 MR. BLACK: Correct.

21 THE COURT: Okay.

22 MR. BLACK: Then there's also, of course, the fact
23 that Mr. Rezene was located in the neighborhood near where the
24 car was crashed, and that there was a witness who described some
11:11:23 25 features that are consistent with Mr. Rezene. And so we would

1 acknowledge that, but submit that those facts are not enough for
2 the Court to find by a preponderance of the evidence that
3 Mr. Rezene was the one who possessed the firearm that night, or
4 that he knowingly possessed a firearm that night.

11:11:44

5 THE COURT: I'd like to continue to talk about, the
6 car's crashed, the witness who identifies himself to the police
7 later is the person who goes over and apparently through, I'm
8 going to assume the car roof, glass top, he reaches in,
9 apparently is -- I'm trying to piece this together from having
10 to read the reports and whatever, to see if the driver is all
11 right; Is that correct?

11:12:20

12 MR. BLACK: That is what he stated, yes.

13 THE COURT: Okay. And what is your theory, if you
14 have one, as to where the gun came from? This Good Samaritan
15 drops the gun in the car, or we just don't know?

11:12:42

16 MR. BLACK: That is a potential theory, although we
17 recognize that there are issues around it, but either him or
18 there was another person who was close to the car when the
19 officers arrived. Theoretically, that person could have dropped
20 the gun in there as well.

11:13:00

21 However, Your Honor, I'm going to get to that question of
22 where the gun came from or how it got in there. My first -- the
23 first segment of our argument was about whether or not
24 Mr. Rezene was actually the person who was identified as the
25 driver. If --

11:13:19

1 THE COURT: And I've got my questions answered about
2 that, so please continue.

3 MR. BLACK: Okay.

11:13:29

4 THE COURT: And finish your thought on that, and then
5 move on to what you're going to move on to next.

6 MR. BLACK: Perfect. Thank you, Your Honor.

7 Just we submit that the description from Mr. Smith was not
8 close enough to the description -- or to Mr. Rezene's actual
9 appearance and attire for the Court to find that it was him.

11:13:56

10 While there are some consistencies, you know, in terms of
11 short, dreads, skinny, Mr. Rezene is all of those things,
12 Mr. Smith said that the driver was wearing new white Nikes;
13 whereas, we'd submit the shoes that were recovered or that
14 Mr. Rezene was actually wearing would not be reasonably
15 described as new white Nikes, they're black. I mean, there is
16 some white on them, but I don't think that that's -- anybody
17 would reasonably describe them as white shoes.

11:14:20

18 And Mr. Smith described the driver as wearing jeans. We'd
19 submit that, as Officer Walters admitted, the pants that
20 Mr. Rezene was wearing were white pants. If you look at the
21 photo, they appear to be more like sort of khakis than jeans,
22 but Your Honor has that photo to take a look at.

11:14:50

23 And we'd submit that this is a big one. Mr. Smith said
24 that Mr. Rezene is wearing a T-shirt. There's no way --
25 Mr. Rezene was wearing a T-shirt, but it was covered in a black

11:15:10

1 jacket, which there was no way that Mr. Smith could have known.

2 THE COURT: Well, let me stop you there.

3 Did I hear any testimony how the driver was dressed, I
4 mean, that he had on the -- you know, there's been multiple
11:15:29 5 terms used, a hoodie?

6 MR. BLACK: No, no, Your Honor, there was definitely
7 no testimony as to that, it was just only a T-shirt.

8 THE COURT: Well, you seem to be implying that, you
9 know, it's a significant consideration that he has on a jacket,
11:15:44 10 but I'm not sure when he puts that on over the T-shirt.

11 MR. BLACK: Well, Your Honor --

12 THE COURT: Is there anything in the record to explain
13 that?

14 MR. BLACK: So the issue would be somebody is in this
11:15:58 15 car crash, they are apparently passed out, wake up, and run
16 away. They're wearing a T-shirt. There's no mention anywhere
17 of a jacket or where that would come from.

18 And so when Mr. Rezene is then found in a jacket later,
19 there's no explanation for why -- how he could have come into
11:16:26 20 contact with a jacket and be wearing one. It's inconsistent
21 with what Mr. Smith was saying.

22 THE COURT: All right. Thank you.

23 MR. BLACK: Another issue with the identification, we
24 would submit, is that Mr. Smith never mentioned Mr. Rezene's --
11:16:52 25 or never mentioned a face tattoo from the driver, which

1 Mr. Rezene has, which is very distinctive, as the Court can see,
2 and as Officer Walters acknowledged.

3 THE COURT: You shouldn't make assumptions about the
4 Court's eyesight.

11:17:05 5 MR. BLACK: Fair enough, Your Honor.

6 Officer Walters indicated that he could see it that night
7 and could see it in court here today.

8 And it's the kind of thing that would certainly be
9 noticeable and if you're providing a description of somebody to
10 the police that you would note. When you're talking about what
11 he's wearing, you know, what's on his face, things like that, it
12 seems like the kind of thing that one would never leave out.

13 But in any event, Mr. Smith didn't mention anything about that.

14 Mr. Smith said that the driver was injured, that he
11:17:44 15 wouldn't be able to get far because he'd just been knocked out,
16 and seemed to be very certain that whoever was driving that car
17 would be exhibiting signs of injury from that serious wreck;
18 whereas, Mr. Rezene when he was encountered by the police didn't
19 exhibit any of those signs.

11:18:06 20 THE COURT: Well, let's talk about that. The hand in
21 the photograph, it's bleeding pretty copiously. And, you know,
22 if you have someone who is passed out in a car and the hand is
23 bleeding noticeably, I'm not sure what assumption that you --
24 consideration, conclusion I should reach from that. But I
11:18:37 25 wasn't that troubled by him saying that, you know, yeah, he's

1 not going to get very far. I mean, he doesn't know that the
2 government's asserting that it's this drug that you recover
3 from. He doesn't know why he's passed out, all he knows is that
4 he flees and has got -- if it's, indeed, as he describes it, or
11:19:02 5 as it's described in the photograph, it's a noticeable wound.

6 MR. BLACK: Well, certainly Mr. Rezene had a wound --
7 a cut on his hand, and we're not disputing that. The point is
8 that Mr. Smith, who observed the driver leaving the vehicle,
9 seemed to think that because of the fact that he had passed out
11:19:27 10 and been in this accident that he wasn't going to be able to get
11 far and was suffering from the impacts of that kind of accident,
12 and that -- that was not apparent, but, admittedly, the cut is a
13 different issue.

14 THE COURT: Well, explain to me your explanation on
11:19:46 15 the cut. I mean, are you sticking with he ran across the field,
16 but, you know, he cut his hand on the fence, then he goes back?
17 I mean, I'm --

18 MR. BLACK: Well, the explanation on the cut is that
19 it's not apparent where it did come from, and the Court doesn't
11:20:07 20 have evidence of that. And we do have, apparently, blood in the
21 vehicle; however, we know that Mr. Smith did cut his hand when
22 he was trying to get in and had a bandage on his hand for that.

23 THE COURT: Well, give me your explanation for the
24 handle on the scooter. The scooter doesn't appear until after
11:20:32 25 the accident's over and done with, the driver's out of the car.

1 According to the government's theory, you know, his hand is
2 injured, and Mr. Smith says his hand is injured, and his hand is
3 injured. Then if that's the case, then encountering the
4 scooter, if it's based on the fence, how did the handle get --
11:21:05 5 it's the same hand that the hand is cut on, how did it get
6 bloody?

7 MR. BLACK: Your Honor, we're not putting forward the
8 theory that the cut came from the fence.

9 THE COURT: Well, I think I listened to your client
11:21:17 10 say that on the video.

11 MR. BLACK: Understood, Your Honor.

12 THE COURT: All right. Continue on, please.

13 MR. BLACK: And I guess to just address one last point
14 from Your Honor's last questions, it does not appear from
11:21:43 15 anything that Mr. Smith said that he thought that the driver was
16 not going to be able to get far because he had a cut hand, it
17 was more related to the -- being passed out, but I'll move on
18 from that.

19 So based on all this, we'd submit that the evidence does
11:22:01 20 not establish that Mr. Rezene was the person who was driving the
21 vehicle that night; however -- and then that would be a defense
22 to both the unlawful possession charge and the hit-and-run
23 charge.

24 However, beyond that, even if it was Mr. Rezene who was
11:22:21 25 driving the car, we'd submit that the facts do not support a

1 finding by a preponderance of the evidence that Mr. Rezene knew
2 that the firearm was in the car. We recognize that the fact
3 that he was near the car and that it was his family's car is
4 probably not a complete coincidence, but that is not enough to
11:22:47 5 make the next leap to say that he's the one who put the gun in
6 the car and knew about it.

7 He could have, you know, at some previous point loaned the
8 car to a friend. He could have had people in the car later that
9 night. These people are people who might have left a firearm
11:23:10 10 there. Mr. Rezene admittedly has associates who, you know, in
11 the past have carried firearms. And it's not too much of a
12 stretch to think that somebody else who had a firearm was
13 present in that vehicle at some point and could have left it
14 there.

11:23:30 15 The crash was obviously violent, flipped the car. You
16 know, that gun, assuming it was in there at the time of the
17 crash, could have been almost anywhere within the cabin of the
18 car and moved around, and the tow truck came and flipped the car
19 over after the crash, and that -- if not likely, certainly at
11:23:53 20 least potentially, could have moved the gun around.

21 And the point there is that the firearm, assuming that it
22 had been in the car, was -- or could have been in a place where
23 it was hidden that Mr. Rezene would not have known about.

24 THE COURT: I want to make sure I understand this:
11:24:11 25 The parents have denied any gun ownership.

1 MR. BLACK: Correct.

2 THE COURT: It is the mother's car.

3 So your explanation for how the gun got in the car was he
4 picked up someone along the way and they had the gun; is that
5 what I'm left with?

11:24:30

6 MR. BLACK: That is a potential explanation, that it
7 could have happened earlier that night, or that it could have
8 happened on an earlier day.

9 THE COURT: Well, I've not heard any testimony that he
10 had the car on another day. And I believe I heard at one point,
11 although it's not been brought out in the hearing, that he took
12 an Uber from somewhere to his parents' house. He was staying
13 with his brother in Burien or something.

11:24:44

14 MR. BLACK: Your Honor, it's correct that the Court
15 does not have evidence that other people drove the car
16 previously, but I guess there's no evidence to the contrary, is
17 what we're saying, so we don't know when the gun could have been
18 placed in the car.

11:25:02

19 THE COURT: All right.

20 MR. BLACK: And then the last point I want to make is
21 that even assuming that Mr. Rezene made some statements to the
22 police that weren't completely accurate, that does not
23 necessarily imply knowledge of the firearm. He was immediately
24 arrested upon the officers encountering him, put into handcuffs,
25 told that he was under suspicion for a hit-and-run. He's on

11:25:20

11:26:01

1 federal supervision. You know, he knows at that point that, you
2 know, regardless, there's trouble. And so to the extent that
3 anything might have been said that wasn't accurate, it would
4 apply equally to that as to the firearm possession. And the
11:26:21 5 point there, again, is just that that doesn't necessarily speak
6 to any kind of knowledge about the firearm.

7 And so, you know, given --

8 THE COURT: Would you agree with me -- I mean, I tried
9 to watch this, I mean, we kindly were given the exhibits in
11:26:39 10 advance, and the only times that I hear Mr. Rezene basically
11 lying is exculpatory to his involvement. I mean, he answers
12 truthfully a whole bunch of stuff, and then when they ask him
13 questions that potentially will expose that he's involved in
14 this, he basically starts lying. What is -- what conclusion
11:27:06 15 should I draw from that in terms of his truthfulness?

16 MR. BLACK: Well, Your Honor, the only point I'm
17 making here is that whether Your Honor draws any conclusion
18 about his truthfulness from that, it doesn't necessarily apply
19 to knowledge of a firearm being present.

11:27:26 20 THE COURT: I understand.

21 MR. BLACK: And, Your Honor, just based on the lack of
22 physical evidence and all these other factors, we're asking the
23 Court to find that the government has not met its burden of
24 establishing these violations by a preponderance of the evidence
11:27:44 25 and asking the Court to dismiss them.

1 THE COURT: You touched on the last two questions I
2 have; the burden is on the government, as I understand it, and
3 both of you acknowledge that.

4 MR. BLACK: Yes.

11:27:58

5 THE COURT: All right. The standard is preponderance
6 of the evidence; correct?

7 MR. BLACK: Yes, Your Honor.

11:28:16

8 THE COURT: Sometimes that's, in the circuit, listed
9 as more likely than not. Is that a standard that you'd accept,
10 or alternative definition for preponderance of the evidence?

11 MR. BLACK: We would agree that that's the standard.

12 THE COURT: The case law says that periodically.

13 MR. BLACK: Yeah.

11:28:33

14 THE COURT: And then, lastly, if I find unlawful
15 possession of a firearm and the crime of hit-and-run, that those
16 would be violations of the mandatory conditions in the Judgment
17 from the underlying offense.

18 MR. BLACK: We do agree that if Your Honor finds that
19 the violations occurred, that they would be violations, yes.

11:28:53

20 THE COURT: Okay.

21 What else would you like me to know, Mr. Black?

22 MR. BLACK: Your Honor, the last point is that I am
23 not sure if the government has established the legal criteria
24 for hit-and-run, or that it occurred in this case.

11:29:15

25 THE COURT: Well, they're alleging a violation of

1 11.56.440, hit-and-run property damage, duty in case of accident
2 with property. I guess we don't count the tree as property, but
3 the vehicle certainly would be.

11:29:47

4 It says that the operator involved in the accident shall do
5 the following: Immediately stop such vehicle at the scene of
6 the collision. Well, that happened here.

7 B, then and there locate and notify the owner or person in
8 charge of such property of the name and address. In this
9 instance, he's denying that it was him.

11:30:09

10 And leave in a conspicuous place upon the property struck a
11 written notice giving the name and address of the operator and
12 owner of the vehicle so striking the property.

13 What element of that has the government failed to plead?

11:30:28

14 MR. BLACK: Whether the tree constitutes property
15 under the statute.

16 THE COURT: Well, you consider the car to be property?

17 MR. BLACK: The car is certainly property, but I
18 believe the wording in the statute is that it's property other
19 than the vehicle, is my reading of that.

11:30:53

20 THE COURT: All right. Then I understand your
21 argument.

22 MR. BLACK: Thank you, Your Honor.

11:31:09

23 THE COURT: Mr. Greenberg, would you like to discuss
24 the accident resulting in damage to property other than the
25 vehicle?

1 MR. GREENBERG: Yes, Your Honor.

2 And I'm showing Exhibit 2. And we certainly believe that
3 that this is the property, that we're looking at the building
4 that was described by the officer. There's a tree on its
11:31:28 5 property and it's clearly damaged, and so that's the property
6 that was damaged. The tree either belongs to the City of
7 Seattle or it belongs to this Aurora House building that we
8 heard testimony of, and that's exactly what 11.56.440 is talking
9 about, that when you damage property that isn't another vehicle,
11:31:50 10 you're supposed to do what we all understand, which is to
11 provide notice to the owner of the property, instead of fleeing
12 the scene, which is what happened here.

13 Along the way, I was making notes myself, but the Court's
14 questions indicated that it was sort of rebutting some of the
11:32:09 15 points I was going to make along the way with Mr. Black, so I'm
16 not going to repeat any of that. I will only say that the term
17 "consciousness of guilt" is what comes to my mind when listening
18 to Mr. Rezene's story to the police officers. And so I disagree
19 with Mr. Black. I think the Court can very well draw an
11:32:31 20 inference of guilt from that, as jurors could at a trial in a
21 similar situation.

22 And so on the preponderance of the evidence standard, Your
23 Honor, we believe we've met that for both violations.

24 One administrative matter that I would ask the Court to do,
11:32:51 25 which is -- I've spoke to Mr. Black, and I understand he talked

1 to Mr. Rezene, and they made the decision -- the defendant made
2 the decision not to testify. I think we should probably put
3 that on the record before the Court rules.

4 THE COURT: All right. Mr. Rezene, are you aware of
11:33:12 5 the fact that you have a right to testify at today's hearing and
6 that you have voluntarily chosen not to exercise that right?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: All right. Thank you, sir.

9 I don't find this to be a particularly close question based
11:33:35 10 on the totality of the circumstances.

11 I'm prepared to find under that preponderance of the
12 evidence standard that the gun was in the car with Mr. Rezene.

13 I came out here expecting there to be some greater
14 discussion of the car coming from his parents and where it ended
11:34:09 15 up, particularly in terms of information that had been
16 previously provided to the Court, which had a whole different
17 set of explanations related to it.

18 I think the evidence is more than substantial and certainly
19 greater than a preponderance, and I therefore find that
11:34:41 20 Mr. Rezene committed the crime of unlawful possession of a
21 firearm on October 31, 2023. Further, that he committed the
22 crime of hit-and-run on October 31, 2023, and that both of those
23 are a violation of a mandatory condition in the Judgment that
24 was entered in the underlying matter by this Court.

11:35:08 25 Counsel, anything further on behalf of the government?

1 MR. GREENBERG: No, Your Honor.

2 I think we can work with the Court to schedule a
3 disposition hearing down the line.

11:35:21

4 THE COURT: That's what you're going to find out next
5 from the in-court deputy.

6 MR. GREENBERG: Okay.

7 THE COURT: Mr. Black?

8 MR. BLACK: Nothing further from the defense, Your
9 Honor.

11:35:27

10 THE COURT: All right. Counsel, thank you.

11 It's interesting. We had a couple of Seattle Police
12 officers testify. I was impressed by Officer Walters' courtesy.
13 The North Precinct and I have a long history since they sued me
14 as part of the consent decree.

11:35:58

15 And a difficulty the Seattle Police Department has at this
16 time is retaining officers and attracting new officers. And one
17 of the problems that the department is having is the number of
18 them who are going to other jurisdictions, particularly
19 Marysville, which has an attractive bonus program, in addition
20 to less traffic.

11:36:26

21 Counsel, thank you.

22 The clerk, do you have a date?

23 (Off the record.)

24 THE COURT: The sentencing will be on April 9 at 9:30
25 a.m.

11:36:57

1 We will be in recess.

2 THE CLERK: All rise. Court is in recess.

3 (Court recessed 11:36 a.m.)

4 C E R T I F I C A T E

5 I certify that the foregoing is a correct transcript from
6 the record of proceedings in the above-entitled matter.

7 /s/ Marci E.C. Chatelain

8 Marci E.C. Chatelain, CCR, RPR, RMR, CRR
9 Federal Court Reporter

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